

DEC 12 2005

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CONRAD CLEMENT HENDERSON,

Defendant - Appellant.

No. 04-50242

D.C. No. CR-03-00949-SVW

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

Submitted December 5, 2005^{**}

Before: GOODWIN, W. FLETCHER and FISHER, Circuit Judges.

Conrad Clement Henderson appeals the 57-month sentence imposed following his guilty plea conviction for being a felon in possession of a firearm and

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

ammunition in violation of 18 U.S.C. § 922(g)(1). We have jurisdiction pursuant to 28 U.S.C. § 1291.

We conclude from the district court's comments at Henderson's sentencing hearing that there is "a reasonable probability that he would have received a different sentence had the district judge known that the sentencing guidelines were advisory." *See United States v. Ameline*, 409 F. 3d 1073, 1078 (9th Cir. 2005) (en banc). Accordingly, we vacate Henderson's sentence and remand for resentencing. *See United States v. Beaudion*, 416 F.3d 965, 970 (9th Cir. 2005).

SENTENCE VACATED AND REMANDED.